

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ROBIN HERRON,

Plaintiff,

v.

THE KROGER COMPANY,

Defendant.

Civil Action File No.

Removed from Gwinnett County State
Court, Civil Action No. 21-C-01246-S5

JURY TRIAL DEMANDED

DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL

COMES NOW Defendant The Kroger Co. (incorrectly identified as “The Kroger Company,” hereinafter referred to as “Defendant” or “Kroger”), by and through undersigned counsel, and shows this Honorable Court the following:

1.

This action was filed in the State Court of Gwinnett County, Georgia, said county being part of the Northern District of Georgia. (N.D.G.A. Local Rule 3.1(A), LR App. A, I). This, the Atlanta Division of this Court, is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

3.

A true and correct copy of all process, pleadings, and orders served upon Defendant The Kroger Co. in this action is attached hereto as Exhibit “A.”

4.

The matter in dispute exceeds \$75,000.00, the statutory amount in controversy, exclusive of interest and costs, as evidenced by Plaintiff’s *Demand* dated June 9, 2020 wherein Plaintiff set forth her demand for \$350,000.00 (Exhibit “B” attached hereto).

5.

(a) At the time of the commencement of this action in Gwinnett County State Court, and since that time, plaintiff Robin Herron (“Plaintiff”) was and is now, a citizen of Georgia.

(b) Defendant Kroger at the time this action was commenced and at the present time, was and still is a corporation, incorporated and existing under and by virtue of the laws of Ohio having its principal place of business in Ohio, and a citizen of Ohio.

6.

The matter in controversy is between citizens of different States and, as outlined above, the amount in controversy exceeds \$75,000.00.

7.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

8.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1441, 1391, and 90(a)(4); see also N.D.G.A. Local Rules LR 3.1(B)(1)(a) and LR App. A, I.

9.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this *Notice of Removal* with the Clerk of the State Court of Gwinnett County, Georgia.

10.

All defendants consent to this removal.

11.

The instant *Notice of Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b)(1).

12.

Furthermore, the instant *Notice of Removal* is timely filed, pursuant to and in accordance with 28 U.S.C. § 1446(c)(1), within one year of the commencement of the above-styled civil action.

WHEREFORE, Defendant The Kroger Co. requests that this action proceed in this Court as an action properly removed to it.

Respectfully submitted, this the 19th day of March, 2021.

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Attorneys for Defendant The Kroger Co.

CERTIFICATE OF SERVICE AND OF COMPLIANCE WITH L.R. 5.1

This is to certify that on this date, the undersigned filed a true and correct copy of the foregoing pleading with the Clerk of Court using the CM/ECF system and served all parties of record via electronic service through the CM/ECF system to:

Philip A. Pendergrass, Jr., Esq.
Ashton A. Revollo, Esq.
THE PENDERGRASS LAW FIRM, PC
45 Technology Parkway South
Suite 230
Peachtree Corners, Georgia 30092

Further, this is to certify that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted, this the 19th day of March, 2021.

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